ep 1007 (3)

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 813 OF 2004

PETITIONER : RAJENDRA S. BRAMHANKAR, aged 36 years, S/o. S.S. Bramhankar, near Water Tank, Sector II, Shankar Nagar, Raipur.

VERSUS

RESPONDENTS :

1. State of Chhattisgarh, through Secretary, Urban Development and Administration, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)

2. Secretary, Department of Health and Family Welfare, Mantralaya, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)

3. Municipal Corporation, Raipur, through Commissioner, Raipur, C.G.

796/89 Kishore Singh 12/3/89

Attested P.R. No.

Amendment incorporated as per Court order dated 13-04-04. Abhishek Sharma Adv. 21-04-04

3/6/04

COPY

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARY AND/OR ANY OTHER SUITABLE WRIT OF LIKE NATURE

(42)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... W.P. 813 ..... **सन्** **200** 4

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	2-8-2005 Mr. Roop Naik, counsel for the petitioner. Mr. Sandeep Dubey, Govt. Advocate for the State/respondents No.1 & 2. Mr. B.P. Sharma, counsel for respondent No.3. The petitioner has preferred this writ petition under Article 226/ 227 of the Constitution of India, with a prayer that the respondent Corporation be directed not to initiate any action against the petitioner in connection with sale of birds / poultry products unless a provision of law is made to this effect. The case of the petitioner is that he is engaged in the business of poultry farm for the last 20 years. His poultry farm is situated outside the municipal limits of Raipur at Telibandha (Ravi Gram, Raipur). There are other shops in the local area of Ravi Gram, Telibandha. Earlier the town of Raipur was having a local market called Jawahar Market and in the said market, meat and poultry products as well as grocery and vegetables used to be sold for the entire city. On account of gradual growth, small markets have come up in the local vicinity of different Mohallas/sectors of the city, and they are not notified, but they are settled in a convenient place adjacent to the grown up place. The respondent Corporation has not declared any place as market place, but in some parts of the city they have allotted small hutment shops to the vendors for sale of goods including	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 813 / **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

grocery, vegetables, meat etc., but in some places no such allotments are made. The poultry farm business is not covered under Section 255 of the Chhattisgarh Municipal Corporation Act, 1956, because this provision does not cover birds and chicken, but provides for selling animals, meat, etc., outside a market without a licence. Chicken is not synonymous to meat. Besides that there is no other provision in the Municipal Corporation Act for management, sale of chicken/birds. By Annexure P-1, the Officers of Municipal Corporation by virtue of wrong interpretation of Sections 255 & 257 of the Chhattisgarh Municipal Corporation Act, 1956, have taken law in their own hands.

I have heard learned counsel for the parties.

Learned counsel for the petitioner submitted that as the petitioner is dealing in the business of poultry farm, as such, he is dealing in the business of chicken and eggs, therefore, the same is not covered under Section 255 of the Act of 1956. Hence, the action of the respondents is illegal.

On the other hand, Mr. B.P. Sharma, learned counsel for the Municipal Corporation, Raipur, argued that chicken is included within the definition of Section 255 of the Act of 1956, as such, the petitioner cannot be allowed to do the business of poultry farm, chicken and eggs without any licence.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.813/ **सन्** 2004

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

In this connection, provisions of Section 255 of the Act of 1956, envisage that

> "Selling animals, meat, etc., outside a market without a licence.-(1) Without a licence from the Commissioner no person shall sell or expose for sale any animal or any meat or fish intended for human food in any place other than a Corporation or licensed market."

It is admitted position that the petitioner is engaged in selling eggs and chicken, therefore, the business of the petitioner is covered under Section 255 of the Act of 1956, for the reason that the same is covered under the words "sale any animal or any meat or fish intended for human food". Chicken comes under 'any animal'. The word 'animal' has to be interpreted in the light of Section 255 of the Act of 1956. The said provision has been incorporated in the Act of 1956 in order to control sale of animal or meat or fish at a specified place so as to meet the hygienic conditions of the area and also in order to avoid hurt to the feelings of the citizens who are vegetarians. As such, the petitioner is not entitled to sell chicken without any licence granted by the Municipal Corporation. Admittedly, the petitioner has no licence to deal with sale of chicken. Therefore, action of the respondents cannot be said to be contrary to the provisions of law.

In the circumstances, this writ petition of the petitioner has no merit, it is liable to be dismissed, and accordingly, it is dismissed.

Sd/-
L.C. Bhadoo
Judge

Samar